

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 361 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KENUBHAI CHUNILAL SHAH

Versus

STATE OF GUJARAT

Appearance:

MR Deepak M SHAH for Appellant
NOTICE SERVED for Respondent No. 1
MR DG CHAUHAN for Respondent No. 2

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE C.K.BUCH

Date of decision: 11/11/98

ORAL JUDGEMENT Per Patel,J.

The appellant, being aggrieved by the order of dismissal of Special civil application No 4137 of 1984, has preferred this appeal .

Before the learned Single Judge, when the specific query was raised, it was fairly stated that a departmental inquiry was under contemplation at the relevant time. It transpires that on two grounds, a Government servant can be suspended; (i) possible tampering with witnesses and (ii) repetition of similar offence. From the record, it transpires that the appellant was served with notice dated 6.8.1984. The Vigilance Commission, after examining the report of investigation and relevant papers of the Anti-Corruption Bureau, found therefrom that irregularities have been made in transport of cement and considerable amount came to be misappropriated by the officers and staff of Mehsana Division and Sub-divisions thereunder. The order is in details which runs into four typed pages, pointing out allegations and the manner in which public funds came to be misappropriated. The Deputy Secretary passed an order which was communicated vide Annexure 'B' dated 7.8.1984.

It was contended before the learned Single Judge that several juniors have been promoted to the posts of senior engineers and he has not been promoted. The learned Single Judge pointed out that petitioner's case for promotion must have been considered but because of the inquiry as contemplated, the result might have been kept in a sealed cover.

Mr. Shah was not in a position to state as to whether after suspension, any inquiry is held or what was the outcome of the said inquiry. He stated that the appellant has retired from services in the year 1985. Nothing is pointed out to us which would compel us to interfere with the order passed by the learned Single Judge. By giving details, if an order of suspension is passed, ordinarily, the court would not interfere with the orders. From the order, it clearly transpires the manner in which public funds came to be misappropriated and the court cannot sit in appeal over the decision of the authority.

The appeal accordingly stands dismissed.

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